S.B. CRIMINAL MISC. II BAIL APPLICATION NO.3375/2006
(Roshan Khan Vs. State)

Date of order : 4.8.2006

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. T.R. Singh Sodha, for the applicant.
Mr. Vishal Raj Mehta, Public Prosecutor.

I have heard learned counsel for the applicant as well as learned Public Prosecutor for the State. I have also perused the challan papers as well as the statement of complainant - Surayya.

It is contended by the learned counsel for the applicant that first bail application was rejected by this Court vide order dated 7.3.2006 and at that time statement of complainant – Surayya was not recorded and in the statement recorded under Section 161 Cr.P.C., she levelled allegation only against Roshan Khan for inflicting injury by stone. It is contended by the learned counsel for the applicant that statement of PW-1 Surayya has been recorded by the trail court in which it is categorically stated by her in cross-examination that she levelled allegations against Roshan and Farukh both and why it was not stated in the statement under Section 161 Cr.P.C., she stated that she did not give such type of statement before Police. It is contended by learned counsel for the applicant that in the statement recorded before the court, it is categorically stated by PW-1 Surayya that Farukh and Roshan both inflicted injury and there

is only one injury upon head of deceased. Further, it is contended that accused Farukh and other co-accused have already been enlarged on bail by this Court and the present applicant is behind the bars since long. It is also contended by the learned counsel for the applicant that case of present accused is not distinguishable from that of accused Farukh after recording of the statement of complainant Surayya as PW-1.

Taking into consideration the facts and circumstances of the case and without expressing any opinion, I think it just and proper to enlarge the accused-applicant on bail.

Accordingly, the second bail application filed under Section 439 Cr.P.C. is allowed and it is directed that the applicant Roshan Khan S/o Riaz Mohd. Pathan shall be released on bail (in FIR No.88/2005, P.S. Parsoli District Chittorgarh) provided he executes a personal bond in the sum of Rs.20,000/- and furnishes two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of the learned trial court for his appearance before that Court on each and every date of hearing and whenever called upon to do so, till the completion of trial.

(GOPAL KRISHAN VYAS), J.

arun